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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/339,153	06/24/1999	SI LOK	97-52D1	2249

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EXAMINER

KAUFMAN, CLAIRE M

ART UNIT	PAPER NUMBER
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1646

DATE MAILED: 09/17/2003

*24*

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/339,153

Applicant(s)

LOK ET AL.

Examiner

Claire M. Kaufman

Art Unit

1646

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED August 26, 2003, FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY [check either a) or b)]**

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☒ A Notice of Appeal was filed on 26 August 2003. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: see attached.

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attached.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: 1-19.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

8. ☐ The proposed drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☐ Other: \_\_\_\_\_.

  
LORRAINE SPECTOR  
PRIMARY EXAMINER

Art Unit: 1646

Continuation of 2 and 5: The amendment raises new issues concerning the addition of the term "cytokine receptor" in the claims that would require further consideration. The rejections under 35 USC 101 and 112, first paragraph, are maintained. The specification does not support a utility for ZytoR11 as an IL-20 receptor subunit. Applicant argues that the specification says ZytoR11 appears to be a receptor for a cytokin of the IL-10 class and so has utility, such as to treat skin conditions. The argument has been fully considered, but is not persuasive. The specification does not identify IL-20 or appreciate ZytoR11 as part of a receptor which binds IL-20 in particular. IL-20 is not an IL-10 homolog in the sense of a species homolog. According to Dumoutier et al. (Cutting Edge: STAT activation by IL-19, IL-20 and mda-7 through IL-20 receptor complexes of two types, J. Immunol. 2001. 167:3545-3549), cited by Applicant in the after final response, IL-20 is a distinct, IL-10 related gene. The several IL-10 "homologs" are clustered together on a chromosome, but have different expression patterns and different activities (see first and second paragraphs of Dumoutier et al.).

### *Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Claire M. Kaufman, whose telephone number is (703) 305-5791. Dr. Kaufman can generally be reached Monday through Thursday from 8:30AM to 12:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yvonne Eyler, can be reached at (703) 308-6564.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0196.

Claire M. Kaufman, Ph.D.



Patent Examiner, Art Unit 1646

September 11, 2003